

personally participated in the investigation set forth below. I am familiar with the facts and circumstances of the investigation through my personal participation, from discussions with other law enforcement, from my discussions with witnesses, and from my review of records and reports relating to the investigation. Because this affidavit is being submitted for the limited purpose of securing an order authorizing the search of the item described in Attachment A for the information listed in Attachment B, I have not included details of every aspect of the investigation.

FACTS IN SUPPORT OF PROBABLE CAUSE

4. Beginning in the summer of 2017, law enforcement began investigating a drug conspiracy involving multiple persons in the Rapid City area with a source from Colorado, then only known as "Diablo." Multiple persons informed law enforcement "Diablo" travelled from Colorado to Rapid City regularly, beginning around May 2017. Law enforcement identified "Diablo" as Dana Faulkner on 8/28/17. Faulkner was charged by federal complaint on 8/30/17. See 5:17-mj-142. On 9/12/17, Faulkner was indicted for Conspiracy to Distribute Methamphetamine, Conspiracy to Distribute Heroin, Conspiracy to Distribute Cocaine, Use of Firearm in Furtherance of Drug Trafficking Crime, and Prohibited Person in Possession of Firearm. CR 17-50144. Faulkner has been in custody since 8/28/17. Law enforcement has continued the investigation of Faulkner and the drug conspiracy.

5. Threats have been conveyed by Faulkner through William Knight to two co-conspirators. Knight confirmed to me in an interview that he was asked by Faulkner to tell both of the co-conspirators to change their stories. One of the co-conspirators later told me Knight told him that Faulkner wanted him to change his story or his young daughter would start missing fingers.

6. Faulkner has had associates come to South Dakota from Colorado to supposedly assist him with his case. Faulkner's jail phone calls have been monitored by Intelligence Analyst Jenny Arehart. She related to me that parts of the conversations are cryptic and can best be described as missing relevant pieces of information. Further, when sensitive information is being discussed, Faulkner asks the other person on the call to write it in a letter to him. He is aware that the jail phone calls and visits are being monitored and I believe he is subverting this system by writing letters to convey threats or continue his drug dealing operation.

7. In the early morning hours of 10/17/17, a black Chevrolet Silverado bearing Colorado license plate 975ZZH was involved in a vehicle pursuit with law enforcement. The driver of this vehicle was believed to be Patrick Sweeter, an associate of the registered owner, Dana Faulkner. The vehicle was abandoned near Keystone, SD. Pennington County Sheriff Deputies located the vehicle later in the day on 10/17/17 and had it towed. Prior to

the tow there was a cursory inventory of the vehicle. During the inventory a methamphetamine pipe, and a loaded .40 pistol magazine were located. On 10/19/17, law enforcement obtained a search warrant for the vehicle from a South Dakota State Judge (17-107436). Inside the vehicle, I located partial copies of the sealed affidavit in support of Faulkner's federal criminal complaint. Next to the SOI (Source of Information) numbers and Confidential Informant, someone wrote the corresponding identities by hand. I also located pages of federal discovery, which are identified in the lower right-hand corner by "Faulkner, Dana 000024 – 000035." I am aware federal discovery was provided by the United States Attorney's Office to Faulkner's defense counsel. I am also aware that federal defendants are not allowed to retain copies of their discovery while in custody, nor are attorneys permitted to disseminate the discovery.

8. On 10/23/17, I asked the Jail Commander Rob Yantis to advise me if any mail that Faulkner was sending out seemed suspicious. Commander Yantis called me on 10/24/17 and informed me he found some mail that seemed to be suspicious. He explained that he came across a letter from Faulkner addressed to Peter M. Titus at 6260 N. Fundy Street, Aurora, CO 80019 (Subject Envelope). As seen in Attachment A, the envelope was marked up excessively stating it was legal mail and confidential. Peter Titus is not known to be a lawyer or otherwise connected with the legal system. From listening to phone calls it appears that Peter Titus is just a friend of Faulkner. Also, Faulkner affixed a stamp to this letter which is not normal because the Pennington County jail provides free postage to any legal mailing.

9. Since being in custody at Pennington County Jail, Faulkner has sent four letters to his home address of 6279 N. Fundy Street, Aurora, CO 80019. The letters have been addressed to Tyler Faulkner, Dayna Faulkner, and Pete Trujillo. On 10/23/17, Faulkner received a letter from "Peter M Titus" at 6260 N. Fundy Street, Aurora, CO 80019. Based on a review of the area through Google Maps, it appears to be a residence on the same street as Faulkner's residence. On 10/24/17, Faulkner submitted the Subject Envelope for mailing.

10. Since being incarcerated, Faulkner has exchanged emails with Pete Trujillo. In an email from Trujillo to Faulkner on September 4, 2017, Faulkner informed Trujillo in part, "also need you to contact satan (u know who im talking about) he owes me some money a lil over \$1400 for a job I did last week."

11. On 10/7/17, Faulkner arranged for inmates at Pennington County Jail to assault a co-conspirator also housed at Pennington County Jail, whom Faulkner apparently believed was cooperating.

12. John Fitzgerald is Faulkner's retained legal counsel on his federal case. In jail phone calls, Faulkner has not mentioned having any other lawyer, other than a public defender who withdrew from Faulkner's case. As of 9/15/17, a review of Faulkner's criminal history did not show any pending criminal matters other than this case.

13. I believe, based on the totality of this information, there is probable cause to believe that Faulkner is subverting the legal mail system to convey threats through his associates, which have been known to come to the area from out of state and/or disseminating further federal discovery containing sensitive information.

Modus Operandi of Drug Traffickers

1. During my tenure in law enforcement, I have been involved in numerous investigations of narcotic trafficking organizations involving the distribution of controlled substances and the amassing and concealing of the proceeds of these sales. I have interviewed drug users and dealers regarding the manner in which they operate and have become familiar with their techniques. I have executed search warrants for vehicles, residence, hotel rooms, as well as search warrants for devices, records, ledgers, and documentation reflecting the sale of controlled substances.

2. Based upon my training and experience, including my direct experience in this investigation, I have developed knowledge regarding practices commonly used by drug traffickers and their organizations, including:

- A. I also know that individuals involved in the distribution of controlled substances and their associates correspond and communicate using internet, social media, email, cellular phone text messages and that their computers and/or other electronic storage media in their possession may be used to prepare, create, and maintain writings, records, and documents relating to their activities and associations, including but not limited to the trafficking of controlled substances.
- B. Through my own experience and training, I am aware that it is common for narcotics traffickers to utilize cellular telephones to facilitate their drug trafficking activities. I am also aware that in addition to using the telephones for communication purposes, said traffickers may also use the internal memory (such as "phone book" or "notes" functions) of the telephone to store names, identifying information, and contact telephone numbers of individuals involved in said drug-trafficking enterprises, and that certain models of cellular telephone also maintain limited logs of past calls made by that telephone.
- C. That it is generally a common practice for drug traffickers to maintain in their residences and/or other locations over which they maintain dominion and control records relating to their drug trafficking activities. Because drug traffickers in many instances will "front" (that is, sell on consignment) controlled substances to their clients, or alternatively, will be "fronted" controlled substances from their suppliers, such record-keeping is necessary to keep track of amounts paid and owed, and such records will also be maintained close at hand so as to readily ascertain current balances. Often drug

traffickers keep “pay and owe” records (drug ledgers) to show balances due for drugs sold in the past (“pay”), and for payments expected (“owe”) as to the trafficker’s supplier and the trafficker’s dealer(s). Additionally, drug traffickers must maintain telephone and address listings of clients and suppliers, and keep them immediately available in order to efficiently conduct their drug trafficking business. Such records can be maintained on paper, cellular phones, or other devices.

- D. That it is a generally common practice for drug traffickers to make use of wire transfers, cashier’s checks, and money orders to pay for expenses associated with services to facilitate their illegal activities. Evidence of such financial transactions and records relating to income and expenditures of money and wealth in connection with drug trafficking would also typically be maintained in a trafficker’s residence and/or other locations over which they maintain dominion and control, including cellular phones.
- E. Drug distributors frequently possess firearms in the furtherance of their drug activities, such as intimidation or threats.

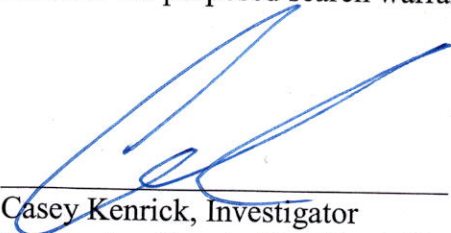
Request to Seal

I request an order sealing this case until further order of the Court, in that this search is being conducted as part of an ongoing federal criminal investigation and contains information regarding persons cooperating with law enforcement. Disclosure of information contained in the documents incorporated in this search and filed with the Court could seriously jeopardize this ongoing investigation.

CONCLUSION

I respectfully submit that based on the facts set forth in this affidavit, there is probable cause to believe the item described in Attachment A contains evidence, fruits, and or instrumentalities of violations of 18 U.S.C. § 1512 and 21 U.S.C. § 841(a)(1) and 846. Therefore, I request the search warrant be issued authorizing a search of the item in Attachment A for the evidence, fruits, and instrumentalities identified with particularity in Attachment B. Arrangements have been made for a Special Agent with the Federal Bureau of Investigation (FBI) to conduct the search. The FBI is not an agency involved in this investigation. The designated FBI agent will act as a “taint team” and not disclose to any other person any client-confidential material he sees, should any such material be discovered inside the item to be searched. If the Subject Envelope does not contain information as described in Attachment B, the agent will return the envelope to the Pennington County Jail for mailing as designated. If the Subject Envelope does contain information as described in Attachment B, the agent will provide me the seized items. The agent will complete the search warrant return accordingly.

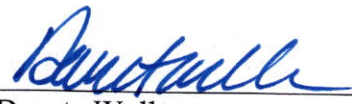
Based on the foregoing, I request that the Court issue the proposed search warrant.



Casey Kenrick, Investigator
Pennington County Sheriff's Office

Sworn to before me and: ☒ signed in my presence.
☐ submitted, attested to, and acknowledged by reliable electronic means.

this 1st day of November, 2017.



Daneta Wollmann
United States Magistrate Judge